

¹ 5 U.S.C. § 8101 *et seq.*

typing in the performance of duty. OWCP accepted her claim for left hand sprain. On July 26, 1993 it accepted right carpal tunnel syndrome. On April 14, 1994 OWCP accepted left elbow extensor tendinitis. Appellant underwent right carpal tunnel release on June 25, 1999. OWCP terminated her wage-loss compensation and medical benefits in a decision dated April 27, 2000. In an Order dated January 31, 2001,² the Board granted a motion filed by the Director of OWCP to set aside the April 27 and June 7, 2000 termination decisions and to remand the case to further develop the medical evidence.

OWCP again terminated appellant's wage-loss compensation and medical benefits effective February 15, 2009 finding that the weight of the medical evidence rested with an impartial medical examiner's May 21, 2008 report. Appellant appealed this decision to the Board. In a decision dated December 30, 2009,³ the Board found that there was a new conflict between appellant's physician, Dr. James E. Lowe, a Board-certified orthopedic surgeon, and Dr. Robert M. Elkins, a Board-certified orthopedic surgeon, a prior impartial medical examiner, on the issue of whether appellant had any continuing disability or medical residuals as a result of her accepted employment injuries. The Board found that the physician utilized as the impartial medical examiner was not selected through the appropriate process. The Board reversed the January 29, 2009 decision.

By decision dated March 25, 2011, OWCP terminated appellant's wage-loss compensation and medical benefits finding that the weight of the medical evidence was represented by the January 13, 2011 report of a second opinion physician, Dr. Edward Mulcahy, a Board-certified orthopedic surgeon, who found that she had no disability or medical residuals as a result of her accepted employment injuries. Appellant appealed this decision to the Board. In a December 9, 2011 decision,⁴ the Board found an unresolved conflict of medical opinion evidence between appellant's physician, Dr. Lowe, and the physicians for OWCP, Dr. Mulcahy and Dr. Elkins. The Board reversed the termination decision. The facts and the circumstances of the case as set forth in the Board's prior decisions are incorporated herein by reference.

In a letter dated January 23, 2012, OWCP referred appellant, a statement of accepted facts and a list of questions, for an impartial medical examination to Dr. William D. Schaefer, a Board-certified orthopedic surgeon. In a report dated February 15, 2012, Dr. Schaefer reviewed the statement of accepted facts and the medical evidence. He performed a physical examination and found well-healed scars in the right upper extremity with a full range of motion and normal strength. Dr. Schaefer also reported normal sensation. He noted appellant's report of inconsistent pain with grip and extension of the wrist. On the left side, Dr. Schaefer found a full range of motion, normal strength and sensation. He diagnosed chronic pain syndrome and listed appellant's surgeries. Dr. Schaefer stated that appellant had a normal physical examination of both upper extremities. He concluded that her accepted left wrist strain, left elbow tendinitis and right carpal tunnel syndrome had resolved. Dr. Schaefer found that appellant was physically capable of performing her duties of secretary, but may require some activity modification to

² Docket No. 00-2309 (issued January 31, 2001).

³ Docket No. 09-892 (issued December 30, 2009).

⁴ Docket No. 11-1134 (issued December 9, 2011).

avoid repetitive activity. He noted that she had no residuals from her January 14, 1991 work injury and no evidence of triggering digits. Dr. Schaefer reiterated that appellant could work with restrictions to limit repetitive motion. He completed a work capacity evaluation on February 5, 2012 and stated that repetitive motion would likely cause her symptoms to worsen in severity. Dr. Schaefer restricted appellant to two hours each of repetitive movements of the wrists and elbows. He further stated, "Claimant does appear to have a chronic pain disorder although the accepted conditions have reached maximal medical improvement and there is no clinical evidence of residual symptoms. This pain disorder may limit her ability to perform repetitive tasks."

On May 7, 2012 OWCP requested a supplemental report from Dr. Schaefer regarding appellant's work restrictions. It asked whether the work restrictions were due to the January 14, 1991 work injury or as preventative measures. On June 6, 2012 Dr. Schaefer responded that appellant's work-related injuries had resolved, but that she would benefit from preventative work restrictions.

On June 19, 2012 OWCP requested an additional supplemental report from Dr. Schaefer addressing whether appellant's accepted conditions caused a trigger finger condition. On July 12, 2012 Dr. Schaefer responded that appellant's accepted work-related conditions did not cause trigger finger.

By letter dated December 26, 2012, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits based on Dr. Schaefer's reports. It allowed appellant 30 days for a response.

By decision dated January 31, 2013, OWCP terminated appellant's wage-loss compensation and medical benefits, finding the weight of medical opinion represented by Dr. Schaefer.

LEGAL PRECEDENT

Once OWCP accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.⁵ After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁶ Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁷ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁸

⁵ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

⁶ *Id.*

⁷ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁸ *Id.*

In situations where there are opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.⁹

ANALYSIS

The Board previously found an unresolved conflict of medical opinion regarding the nature and extent of appellant's employment-related residuals and disability due to the January 23, 1991 employment injuries of left hand sprain, right carpal tunnel syndrome and left elbow extensor tendinitis. Due to this unresolved conflict, OWCP properly referred her to Dr. Schaefer to resolve the medical issues pursuant to 5 U.S.C. § 8123(a).

Dr. Schaefer provided a proper factual background for his report by reviewing the statement of accepted facts. He provided findings on physical examination of both upper extremities noting that appellant's accepted employment injuries had resolved. Dr. Schaefer found full range of motion, normal strength and normal sensation in both upper extremities. He stated that appellant had a normal physical examination of the bilateral upper extremities. Dr. Schaefer concluded that appellant had no residuals from her January 14, 1991 work injuries. He completed a work capacity evaluation on February 5, 2012 and stated that repetitive motion would likely cause her symptoms to worsen in severity due to her chronic pain disorder.

On May 7, 2012 OWCP requested a supplemental report addressing whether the work restrictions were due to the January 14, 1991 work injury or due to preventative measures. Dr. Schaefer responded on June 6, 2012 and stated that appellant's work-related injuries had resolved and that the work restrictions were preventative. OWCP requested an additional supplemental report from Dr. Schaefer addressing whether appellant's accepted conditions caused a trigger finger condition. On July 12, 2012 Dr. Schaefer responded and stated that appellant's accepted work-related conditions did not cause a trigger finger.

The Board finds that OWCP has met its burden of proof to terminate appellant's compensation and medical benefits based on Dr. Schaefer's reports. Dr. Schaefer has provided detailed findings on physical examination and explained that appellant had no objective physical findings and no residuals of her accepted conditions. These well-reasoned reports represent the weight of the medical opinion evidence and established that appellant's work-related disability and medical conditions have ceased.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective January 31, 2013.

⁹ Nathan L. Harrell, 41 ECAB 401, 407 (1990).

ORDER

IT IS HEREBY ORDERED THAT the January 31, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 21, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board